OPPOSITION TESTIMONY

Senate Committee on Financial Institutions and Insurance

SB 360

Enacting the Kansas consumer prescription protection and accountability act and providing for regulation and registration of pharmacy benefits managers.

January 28, 2026

Good morning Madam Chair Dietrich and Members of the Committee:

By way of introduction, I am Whitney Damron and I appear before you today on behalf of the Pharmaceutical Care Management Association (PCMA), which is a national association representing America's pharmacy benefit managers (PBMs). I stand before you today to express PCMA's concerns with SB 360 and will highlight just some of our reasons. However, I would note we do not oppose the entirety of SB 360.

PCMA believes we can work with stakeholders after listening to their concerns today and see if we can find common ground as we did in 2022, when we met with representatives from the Kansas Pharmacists Association and successfully negotiated a compromise bill that gave the Kansas Insurance Department license authority over PBMs.

However, PCMA does take exception to provisions of this legislation that would unduly interfere with plan design and choice for plan sponsors who are the entities that actually have the power to negotiate fees, reimbursement options, discounts, and compensation paid to PBMs for their services.

Plan sponsors are in the driver's seat when negotiating with a PBM for a contract plan, most of which are competitively bid and see both parties to a proposed agreement consider all aspects and options for compensation for a plan and plan design, including spread pricing, rebates, including who benefits from a rebate (e.g., PBM, Plan, or both), discounts, deductibles, and more. Restricting or limiting options for either party will necessarily increase costs to the ultimate consumer – the insureds covered by a health care insurance plan.

Just for a moment I would like to point out what PBM's actually do. PBMs administer prescription drug plans for more than 289 million Americans who have health insurance from a variety of sponsors including: commercial health plans, self-insured employer plans, union plans, Medicare Part D plans, the Federal Employees Health Benefits Program (FEHBP), state government employee plans (including the State of Kansas), managed Medicaid plans, and others. They are one of the relatively few entities integral to the health care delivery system that work to put downward pressure on health costs.

PBMs seek out lower cost alternatives for drugs, including generics and more affordable health care options, which can run counter to a drug company's advocacy for its own name brand drugs. PBMs provide review of health care protocols and options that assist health care providers in ensuring the best possible care options for patients. They negotiate rebates from drug manufacturers and discounts from drugstores. They reduce waste and monitor consumer adherence to prescription directives.

A question that should be asked is why are we really here today. The prevailing argument seems analogous to the old line of "when it's not about the money, it's about the money." Evidence being inclusion of a "professional dispensing fee" of $10.50 found in New Section 5.

A "pill tax" renamed as a "dispensing fee" may make it through the Legislature but it won't be so well accepted by the consumer who will be forced to pay this charge on each and every prescription regardless of cost of the underlying drug. Where else in state law do we require minimum fees, surcharges, or guaranteed profits for a private sector entity or business? The effect of this section alone will be to cost Kansas consumers millions of dollars and inure to the benefit of a select group of providers – pharmacists and pharmacies. But not just Kansas pharmacies, as the subsidy flows to wherever the pharmacy is located.

Which leads me to another point. Independent pharmacists routinely express frustration with their ability to profitably operate their pharmacies, particularly in rural areas of the state. Many in the Legislature are familiar with the plight of small-town grocery stores, too, which have disappeared in many parts of the state. Some blame Wal-Mart and big box retailers, but in reality, it's called competition and the PBMs are not wholly to blame, if at all for so-called pharmacy deserts in our state.

Big box retailers with coupons, free delivery, same-day or 24-hour mail order delivery, and more; discount prescription providers, market disruptors such as Mark Cuban's *Cost-Plus Drugs*, and others backed by some of the biggest companies and technology providers in the world are placing downward pressure on the cost of prescriptions, thus undercutting the business model of pharmacies resistant to change or failure to adapt in ways to survive in this kind of market disruption, yet these changes are providing immense benefits to consumers in the form of lower prescription and delivery costs. Over the last ten years (2015-2025), the number of independent retail pharmacies nationwide increased by 321 stores or 1.4%. In contrast, the number of retail chain pharmacies decreased by 5,742 stores or 14.1%."*

As noted earlier in my remarks, the PBMs and the Kansas Pharmacists Association met in 2022 to work out an agreement on the pharmacists bill, and we stand ready to meet and try to work through another compromise that will hopefully secure a degree of regulatory certainty and benefit for all parties concerned. PBM representatives are scheduled to meet with representatives of the Kansas Pharmacists Association tomorrow and are committed to working through SB 360 and see if we can find areas of common agreement.

With that, Madam Chair and Committee members, I thank you for your consideration of our comments and concerns today and will stand for questions when timely and appropriate.

Whitney Damron
On behalf of the Pharmaceutical Care Management Association
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**PCMA information compiled from the National Council for Prescription Drug Programs (NCPDP) data.*

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